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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,534	03/05/2007	Gunnar Christer Hansson	06237/LH	4101
1933 7590 12/09/2009 FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 220 Fifth Avenue 16TH Floor NEW YORK, NY 10001-7708				
EXAMINER WEEKS, GLORIA R				
ART UNIT 3721		PAPER NUMBER		
MAIL DATE 12/09/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/574,534

Applicant(s)

HANSSON ET AL.

Examiner

GLORIA R. WEEKS

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment and remarks received on July 10, 2009.

Inventorship

2. In view of the papers filed December 30, 2008, the inventorship in this non-provisional application has been changed by the deletion of Gunnar Christer Hansson.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 10 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Jinkins (USPN 3,901,098).

In reference to claims 10 and 15, Jinkins discloses a power tool comprising: a housing 3; an output shaft 26 driven by a rotation motor 5; and an angle drive mechanism coupling the motor 5 to the output shaft 26, the angle drive mechanism including: a one-piece drive spindle 7 and pinion 8 coupled to the motor 5; a bevel gear mounted 14 on the output shaft 26; wherein the drive spindle 7 is axially supported relative to the housing by a ball bearing 10 having an inner ring 6 and an outer ring 12; and an adjusting device which sets an axial position of the drive

spindle 7 and the pinion 8 relative to the bevel gear 14; wherein the outer ring 12 is axially secured relative to the housing 3; and wherein the adjusting device comprises: a threaded portion on said drive spindle 7; an internal thread formed integrally with the inner ring 6 and arranged to cooperate with the threaded portion on the drive spindle; and a coupling device 18.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11-13 and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jinkins (USPN 3,901,098 in view of Johnson (USPN 3,838,588)

Regarding claims 11-13 and 16-18, Jinkins discloses a power tool comprising: a one-piece drive spindle 7 and pinion 8 axially supported relative to the housing by a ball bearing 10 having an inner ring 65 and an outer ring 12; and an adjusting device which sets an axial position of the drive spindle 7 and the pinion 8 relative to the bevel gear 14; wherein the outer ring 12 is axially secured relative to the housing 3; and wherein the adjusting device comprises: a threaded portion on said drive spindle 7; an internal thread formed integrally with the inner ring 6, wherein the inner ring 6 is positioned at a recess of the spindle and is arranged to cooperate with the threaded portion on the drive spindle; a coupling ring 18; and a lock ring 17. Jinkins does not disclose the coupling ring 18 to have teeth.

Johnson teaches a power tool comprising: a spindle 27 connected to a coupling ring 41, the coupling ring having inner teeth 40 that cooperate with splines 39 on the spindle 27. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the coupling ring and spindle of Jenkins to include inner teeth, since Johnson suggests that such a modification secures the coupling ring into a desired orientation with respect to the spindle, which is found to be desired based on column 4 lines 6-22 of Jenkins.

7. Claim 14 and 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jenkins (USPN 3,901,098 in view of Yakura et al. (USPN 6,709,161).

With respect to claims 14 and 19, Jenkins discloses a power tool comprising: a one-piece drive spindle 7 and pinion 8 axially supported relative to the housing by a ball bearing 10 having an inner ring 65 and an outer ring 12, but does not disclose the ball bearing as an angular contact ball bearing. It would have been obvious to one having ordinary skill in the art at the time of the invention to replace the ball bearing of Jenkins with an angular contact ball bearing, since column 3 lines 1-4 of Yakura et al. teaches an angular contact ball bearing assists with lubrication of the bearing thus prolonging life of the bearing during high speed rotation and reducing cost.

Response to Arguments

8. Applicant's arguments filed July 10, 2009 with respect to Jenkins have been fully considered but they are not persuasive.

9. In response to applicant's argument that the structure of Jenkins fails to adjust the drive spindle and pinion relative to the bevel gear, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in

order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Examiner has found that upon rotation of sleeve 6 disclosed by Jenkins, the spindle 7 and pinion would move towards and away from the bevel gear 14, thereby causing adjustment of the spindle relative to the bevel gear. Jenkins may not disclose such a function as being desired, however, the claimed structure is disclosed, nonetheless. Applicant is encouraged to explain what specific structural limitations of Applicant's claimed invention is not disclosed by Jenkins. Although Jenkins has stated that the connection of sleeve 6 with the spindle 7 is for the purpose of securing the two parts together, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious.¹

10. Applicant's arguments, see pages 2-3, filed July 10, 2009, with respect to the rejection(s) of claim(s) 11-13 and 16-18 under 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Johnson (USPN 3,838,588).

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Refer to attachment for notice of references cited and recommended for consideration based on their disclosure of limitations related to the claimed invention.

¹ See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-Th 8am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/
Examiner, Art Unit 3721
/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit
3721

December 9, 2009